

[Products Liability Law Daily Wrap Up, STATUTES OF LIMITATIONS AND REPOSE—MOTOR VEHICLES—D. Ore.: Missouri law trumps Oregon’s 10-year repose period in defective auto case, \(Oct. 29, 2014\)](#)

Products Liability Law Daily Wrap Up

[Click to open document in a browser](#)

By Pamela C. Maloney, J.D.

Oregon’s 10-year products liability statute of repose did not apply to a vehicle owner’s products liability action against an automobile manufacturer, the federal district court ruled, because Missouri law, which did not have a statute of ultimate repose, applied. The Oregon court applied Missouri law because it was the state in which the vehicle had been manufactured (*Miller v. Ford Motor Co.*, October 27, 2014, Coffin, T.).

Background. The owner of a Ford Escape, Aline Miller, filed a products liability action against Ford Motor Company for damages arising from a fire that allegedly originated in the vehicle and spread to her dwelling, causing property damage. The vehicle owner also claimed that she had fractured her heel when she fell while trying to escape the fire. The action, which had been filed in an Oregon state court, was removed to federal court on the basis of diversity. Ford moved for summary judgment on the ground that Oregon’s 10-year products liability Statute of Ultimate Repose (ORS 174.010) barred the claim.

Application of statute of repose. Oregon law provides that a product liability action “must be commenced before the later of: (a) Ten years after the date on which the product was first purchased for use or consumption; or (b) The expiration of any statute of repose for an equivalent civil action in the state in which the product was manufactured.” The court explained that the statute requires Oregon to “look away” to the law of the state in which the vehicle was manufactured and to substitute that state’s repose period for the Oregon repose period for purposes of determining whether a claim is barred by a statute of repose.

The court went on to clarify that given the legislative intent behind the look-away provision, the lack of a statute of repose in the state in which the product was manufactured was irrelevant in determining what law applied. The court rejected the manufacturer’s assertion that in a case in which the state of manufacture has no statute of repose, the vehicle owner must rely on Oregon’s 10-year statute. According to the court, that argument was incorrect and contrary to the spirit of the repose statute. The focus of the law was on adopting the other state’s time limit, even if that meant there was no time limit, the court opined, because the purpose of the statute, as reflected in the legislative history, was to help Oregon citizens get their day in court. It would be “illogical” to believe that Oregon’s 10-year repose period was more favorable to an injured person than no statute of repose, the court admonished.

In further explanation of its decision to apply Missouri law even though it had no statute of repose, the court noted that Oregon citizens should be protected equally and should enjoy the same privileges in a products liability claim as other states’ citizens. In addition, it would not be unfair to the manufacturer if the statute of repose of the state of manufacture applied because the manufacturer would be aware of the law of the statute of repose in the state in which it was doing business.

The case number is [6:14-CV-785-TC](#).

Attorneys: Ivan M. Karmel (Law Office of Ivan M. Karmel) for Aline L. Miller. Nancy M. Erfle (Gordon & Rees LLP) for Ford Motor Co.

Companies: Ford Motor Co.

Cases: [CourtDecisions](#) [SoflReposeNews](#) [MotorVehiclesNews](#) [OregonNews](#) [MissouriNews](#)